IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

WP(C).No. 32677 of 2006(M)

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PETITIONER:

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SMITHA, D/O.PRASANNAKUMARI,
`KANNANS', MARKET ROAD, CHITTATTINKARA DESOM,
ATTINGAL.

BY ADV. SRI.M.R.ANANDAKUTTAN
SMT.M.HEMALATHA
SRI.R.S.MADHU
SRI.MAHESH ANANDAKUTTAN

RESPONDENTS:

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1. THE SALES TAX OFFICER,
III-CIRCLE, THIRUVANANTHAPURAM.

2. THE COMMISSIONER OF COMMERCIAL TAXES,
COMMISSIONERATE OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

3. THE APPELLATE ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, THIRUVANANTHAPURAM.

4. THE DEPUTY TAHSILDAR (RR),
THIRUVANANTHAPURAM.

5. THE REVENUE DIVISIONAL OFFICER,
THIRUVANANTHAPURAM.

6. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.

7. THE COMMISSIONER OF LAND REVENUE,
COMMISSIONERATE OF LAND REVENUE,
THIRUVANANTHAPURAM.

8. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

9. THE SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

10. K.SREEKUMAR, USHUS HOUSE,
KAZHAKKUTTAM, THIRUVANANTHAPURAM.

R1 TO 9 BY G.P. SRI.I.V.PROMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.32677 of 2006

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Dated this the 8th day of December, 2006.

JUDGMENT

The petitioner admittedly purchased property from defaulter to sales tax and therefore, apprehends attachment and sale of property. Section 26A of the KGST Act creates charge on defaulter's property and if petitioner has purchased property, then of course recovery can be made by attachment and sale of property. However, if defaulter has other properties, recovery should be proceeded against such properties first. In any case since petitioner can make a claim petition under Section 46 of the Revenue Recovery Act before the recovery authority, there is no need for this court to interfere in the matter. The W.P. is closed leaving freedom to the petitioner to file claim petition before the Tahsildar in recovery proceedings.

C.N.RAMACHANDRAN NAIR
Judge

pms